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THE MASSACHUSETTS
TOXICS USE REDUCTION INSTITUTE

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February 23, 1999

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Secretary Donald Clark
Federal Trade Commission
Sixth and Pennsylvania Ave., N.W.
Washington, D.C. 20580

RE: 16 C.F.R. Part 423 - Care Labeling Rule

Dear Secretary Clark:

On behalf of the Massachusetts Toxics Use Reduction Institute (the Institute), I thank you for the opportunity to offer comments on the proposed amendments to the Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods, 16 C.F.R. Part 423 (Care Labeling Rule). Based on Massachusetts' experience with efforts to reduce the use of toxic chemicals (including the dry cleaning solvent perchloroethylene), the Institute urges the Federal Trade Commission to make professional wet clean care labeling mandatory rather than discretionary.

In its Notice of Proposed Rulemaking, 63 FR 25417 (May 8, 1998), the FTC states that one of its goals in revising the care labeling regulations is to reduce the impact of the dry cleaning solvent perchloroethylene on the environment. Research that the Institute has conducted or sponsored corroborates other evidence that professional wet cleaning is an effective, affordable, and viable garment cleaning alternative. Furthermore, the Institute has long advocated the use of professional wet cleaning where appropriate because it has a much lower impact on the environment than do garment cleaning processes using perchloroethylene or petroleum solvents.

The Institute is concerned that a discretionary rather than mandatory approach to professional wet clean labeling will fail to meaningfully reduce the impact of perchloroethylene use on the environment. Under a discretionary scheme, an individual manufacturer would incur extra costs if it chose to conduct reasonable and adequate testing as to whether a particular garment could be professionally wet cleaned. It is hard to envision many manufacturers voluntarily engaging in an activity whose cost could put them at a competitive disadvantage (and whose complexity could increase their regulatory compliance burden). The paucity of wet cleaning instructions on garment care labels that would likely result from a discretionary approach will continue to discourage



professional garment cleaners from experimenting with wet cleaning techniques without the protection of indemnification for damage to garments cleaned in accordance with care labeling instructions. By adopting a discretionary rather than mandatory approach to professional wet clean labeling, then, the FTC would have missed a prime opportunity to improve the quality of our environment by facilitating a decrease in the use of perchloroethylene.

Our experience in Massachusetts with the Toxics Use Reduction Program provides some support, by analogy, for an FTC decision to require rather than permit professional wet cleaning instructions on garment care labeling. The Massachusetts Toxics Use Reduction Program (TUR Program) requires manufacturers to explore less toxic and more environmentally friendly alternatives to their production processes. It also requires manufacturers to make public certain data on the chemicals they use and/or release into the environment. Significantly, the TUR Program does not actually require manufacturers to implement any environmentally preferable changes to their products or processes based on the identified alternatives. When the Massachusetts legislature unanimously passed the Toxics Use Reduction Act (M.G.L. c. 21I) in 1989, it specifically considered and rejected a discretionary approach to manufacturers' exploration of cleaner production alternatives. The TUR Program has succeeded in reducing the quantity of toxic chemicals released to the environment in Massachusetts by 30% between 1990 and 1995 (using data normalized to take into account changes in levels of production). Furthermore, it achieved this result without harming the competitiveness of Massachusetts industry - many of whom reported a net economic benefit associated with fulfilling the requirements of the Act. Interestingly, many of the facilities subject to Act stated that they would not have undertaken such an in-depth exploration of environmentally friendly alternatives to their production processes in the absence of a regulatory requirement to do so.

The FTC now has the opportunity to follow the lead of the Massachusetts legislature in the area of toxics use reduction by requiring garment manufacturers to explore less toxic alternatives for cleaning and maintaining their products. Like the Massachusetts TUR Program, which does not require manufacturers to implement any environmentally preferable changes to their products or processes that may be identified, an FTC rule that mandates the inclusion of wet cleaning instructions in garment care labeling would not require that garment manufacturers in any way modify their product (i.e., produce only garments that are suitable for wet cleaning). Rather, like the TUR Program, such an FTC rule would properly place the burden on manufacturers, rather than governmental agencies or consumers, to determine whether a product could be manufactured or used in a manner that has a less adverse impact on the environment. Furthermore, just as the TUR Program's chemical use and release reporting requirements afford the customers of Massachusetts manufacturers a better view of the environmental impact of their suppliers' operations, an FTC rule requiring mandatory wet cleaning instructions would offer garment purchasers a more comprehensive picture of the environmental impact of a garment through its entire life cycle.

Thank you again for the opportunity to participate in the discussion about the amendments to the above-referenced rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Ellenbecker", with a long horizontal flourish extending to the right.

Michael J. Ellenbecker, Sc.D., CIH
Acting Director